

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

KURBY DECKER, #594703

§

VS.

§

CIVIL ACTION NO. 5:09cv27

ROGER MCDONALD, ET AL.

§

ORDER

Came on for consideration, the Plaintiff's document entitled "Plaintiff's First Rule 15(a) Supplemental Complaint" (docket entry #29). The Plaintiff has mixed together two separate concepts. Rule 15(a) concerns amended complaints. Rule 15(d) concerns supplemental complaints. Since the Defendants had already filed a responsive pleading before the motion was served, the Plaintiff had to have the permission of the Court or the opposing party's written consent to file an amended complaint. Under Rule 15(d), he had to obtain leave of court to file a supplemental complaint about transactions, occurrences or events that occurred since he filed the original complaint. He did not obtain permission to file either an amended or supplemental complaint.

The Court's review of the Plaintiff's document makes it appear that he is trying to amend the complaint with an additional defendant and additional claims, as opposed to presenting a supplemental complaint. He presented the additional defendant and claims without repeating the claims in the original complaint. It is noted that an amended complaint supersedes and takes the place of an original complaint. *Clark v. Tarrant County, Texas*, 798 F.2d 736, 740 (5th Cir. 1986). For that reason, an amended complaint should be a complete complaint which replaces the original complaint. An amended complaint may not refer back to the original complaint with instructions

to add, delete or substitute various sentences, paragraphs, sections or defendants. The proposed amended complaint is not in proper form and thus must be rejected. It is accordingly

ORDERED that Plaintiff's first Rule 15(a) supplemental complaint (docket entry #29) is **STRICKEN**. The lawsuit will proceed on the Plaintiff's original complaint (docket entry #1).

SIGNED this 6th day of July, 2009.


CAROLINE M. CRAVEN
UNITED STATES MAGISTRATE JUDGE